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8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 A BASE IX CO. LLC, a New York  
11 Corporation,

12 Plaintiff,

13  
14 v.

15 S&J APPAREL, INC., a California  
16 Corporation, dba Cleo Apparel, dba  
17 Jasmine Apparel, dba Naked Apparel;  
18 STEVEN YOUNG aka STEPHEN  
19 JUNG, an individual; RAINBOW  
20 APPAREL DISTRIBUTION CENTER,  
21 CORP., a New Jersey Corporation;  
22 RAINBOW USA, INC., a New York  
23 Corporation; and DOES 1-25, inclusive,

24 Defendants.

25 AND RELATED COUNTERCLAIMS

CASE NO. CV 17-03920-SJO (GJSx)

Assigned to: Hon. S. James Otero

**STIPULATED PROTECTIVE ORDER**

26 1. A. PURPOSES AND LIMITATIONS

27 Discovery in this action is likely to involve production of confidential,  
28 proprietary or private information for which special protection from public

1 disclosure and from use for any purpose other than prosecuting this litigation may  
2 be warranted. Accordingly, the parties hereby stipulate to and petition the Court to  
3 enter the following Stipulated Protective Order. The parties acknowledge that this  
4 Order does not confer blanket protections on all disclosures or responses to  
5 discovery and that the protection it affords from public disclosure and use extends  
6 only to the limited information or items that are entitled to confidential treatment  
7 under the applicable legal principles.

#### 8 9 B. GOOD CAUSE STATEMENT

10 This action is likely to involve trade secrets, customer and pricing lists and  
11 other valuable development, commercial, financial, and/or proprietary information  
12 for which special protection from public disclosure and from use for any purpose  
13 other than prosecution of this action is warranted. The parties to this action are  
14 direct competitors in a very competitive business marketplace. The confidential  
15 business information which is sought to be protected by this order involves pricing,  
16 production, customer and other information for which special protection is  
17 especially warranted. Such confidential and proprietary materials and information  
18 consist of, among other things, confidential business or financial information,  
19 information regarding confidential business practices, or other confidential  
20 development, or commercial information (including information implicating privacy  
21 rights of third parties), information otherwise generally unavailable to the public, or  
22 which may be privileged or otherwise protected from disclosure under state or  
23 federal statutes, court rules, case decisions, or common law. Accordingly, to  
24 expedite the flow of information, to facilitate the prompt resolution of disputes over  
25 confidentiality of discovery materials, to adequately protect information the parties  
26 are entitled to keep confidential, to ensure that the parties are permitted reasonable  
27 necessary uses of such material in preparation for and in the conduct of trial, to  
28 address their handling at the end of the litigation, and serve the ends of justice, a

1 protective order for such information is justified in this matter. It is the intent of the  
2 parties that information will not be designated as confidential for tactical reasons  
3 and that nothing be so designated without a good faith belief that it has been  
4 maintained in a confidential, non-public manner, and there is good cause why it  
5 should not be part of the public record of this case.

### 6 7 C. ACKNOWLEDGMENT OF PROCEDURE FOR FILING UNDER SEAL

8 The parties further acknowledge, as set forth in Section 12.3, below, that this  
9 Stipulated Protective Order does not entitle them to file confidential information  
10 under seal; Local Civil Rule 79-5 sets forth the procedures that must be followed  
11 and the standards that will be applied when a party seeks permission from the court  
12 to file material under seal.

13 There is a strong presumption that the public has a right of access to judicial  
14 proceedings and records in civil cases. In connection with non-dispositive motions,  
15 good cause must be shown to support a filing under seal. *See Kamakana v. City and*  
16 *County of Honolulu*, 447 F.3d 1172, 1176 (9th Cir. 2006), *Phillips v. Gen. Motors*  
17 *Corp.*, 307 F.3d 1206, 1210-11 (9th Cir. 2002), *Makar-Welbon v. Sony Electronics,*  
18 *Inc.*, 187 F.R.D. 576, 577 (E.D. Wis. 1999) (even stipulated protective orders  
19 require good cause showing), and a specific showing of good cause or compelling  
20 reasons with proper evidentiary support and legal justification, must be made with  
21 respect to Protected Material that a party seeks to file under seal. The parties' mere  
22 designation of Disclosure or Discovery Material as CONFIDENTIAL does not—  
23 without the submission of competent evidence by declaration, establishing that the  
24 material sought to be filed under seal qualifies as confidential, privileged, or  
25 otherwise protectable—constitute good cause.

26 Further, if a party requests sealing related to a dispositive motion or trial, then  
27 compelling reasons, not only good cause, for the sealing must be shown, and the  
28 relief sought shall be narrowly tailored to serve the specific interest to be protected.

1 *See Pintos v. Pacific Creditors Ass'n*, 605 F.3d 665, 677-79 (9th Cir. 2010). For  
2 each item or type of information, document, or thing sought to be filed or introduced  
3 under seal in connection with a dispositive motion or trial, the party seeking  
4 protection must articulate compelling reasons, supported by specific facts and legal  
5 justification, for the requested sealing order. Again, competent evidence supporting  
6 the application to file documents under seal must be provided by declaration.

7 Any document that is not confidential, privileged, or otherwise protectable in  
8 its entirety will not be filed under seal if the confidential portions can be redacted.  
9 If documents can be redacted, then a redacted version for public viewing, omitting  
10 only the confidential, privileged, or otherwise protectable portions of the document,  
11 shall be filed. Any application that seeks to file documents under seal in their  
12 entirety should include an explanation of why redaction is not feasible.

## 14 2. DEFINITIONS

15 2.1 Action: this pending federal lawsuit

16 2.2 Challenging Party: a Party or Non-Party that challenges the  
17 designation of information or items under this Order.

18 2.3 "CONFIDENTIAL" Information or Items: information (regardless of  
19 how it is generated, stored or maintained) or tangible things that qualify for  
20 protection under Federal Rule of Civil Procedure 26(c), and as specified above in  
21 the Good Cause Statement.

22 2.4 Counsel: Outside Counsel of Record and House Counsel (as well as  
23 their support staff).

24 2.5 Designating Party: a Party or Non-Party that designates information or  
25 items that it produces in disclosures or in responses to discovery as  
26 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES  
27 ONLY".

28 2.6 Disclosure or Discovery Material: all items or information, regardless

of the medium or manner in which it is generated, stored, or maintained (including, among other things, testimony, transcripts, and tangible things), that are produced or generated in disclosures or responses to discovery in this matter.

2.7 Expert: a person with specialized knowledge or experience in a matter pertinent to the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a consultant in this Action.

2.8 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”  
Information or Items: extremely sensitive “Confidential Information or Items,” disclosure of which to another Party or Non-Party would create a substantial risk of serious harm that could not be avoided by less restrictive means. Information and material that may be subject to this protection includes, but is not limited to, research and development data, intellectual property, financial, marketing and other sales data, and/or information having strategic commercial value pertaining to the Designating Party’s trade or business.

2.9 House Counsel: attorneys who are employees of a party to this Action. House Counsel does not include Outside Counsel of Record or any other outside counsel.

2.10 Non-Party: any natural person, partnership, corporation, association or other legal entity not named as a Party to this action.

2.11 Outside Counsel of Record: attorneys who are not employees of a party to this Action but are retained to represent or advise a party to this Action and have appeared in this Action on behalf of that party or are affiliated with a law firm that has appeared on behalf of that party, and includes support staff.

2.12 Party: any party to this Action, including all of its officers, directors, employees, consultants, retained experts, and Outside Counsel of Record (and their support staffs).

2.13 Producing Party: a Party or Non-Party that produces Disclosure or Discovery Material in this Action.

1           2.14 Professional Vendors: persons or entities that provide litigation  
2 support services (e.g., photocopying, videotaping, translating, preparing exhibits or  
3 demonstrations, and organizing, storing, or retrieving data in any form or medium)  
4 and their employees and subcontractors.

5           2.15 Protected Material: any Disclosure or Discovery Material that is  
6 designated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –  
7 ATTORNEYS’ EYES ONLY”.

8           2.16 Receiving Party: a Party that receives Disclosure or Discovery  
9 Material from a Producing Party.

10  
11       3.     SCOPE

12           3.1     The protections conferred by this Stipulation and Order cover not only  
13 Protected Material (as defined above), but also (1) any information copied or  
14 extracted from Protected Material; (2) all copies, excerpts, summaries, or  
15 compilations of Protected Material; and (3) any testimony, conversations, or  
16 presentations by Parties or their Counsel that might reveal Protected Material.

17           3.2     Any use of Protected Material at trial shall be governed by the orders of  
18 the trial judge. This Order does not govern the use of Protected Material at trial.  
19 The parties and their counsel hereby agree to inform all parties to the action of the  
20 names of all persons who have agreed to the terms of this stipulated protective order  
21 and to update such list of persons no later than 5 days after any changes to the list  
22 have been made.

23           3.3     The designation of any information or materials as “CONFIDENTIAL”  
24 or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” is intended solely  
25 to facilitate the conduct of this litigation. Neither such designation nor treatment in  
26 conformity with such designation shall be construed in any way as an admission or  
27 agreement by the Receiving Party that the Protected Materials constitute or contain  
28 any trade secret or confidential information, or the discoverability thereof. Except

1 as provided in this Protective Order, the Receiving Party shall not be obligated to  
2 challenge the propriety of any designation, and a failure to do so shall not preclude a  
3 subsequent attack on the propriety of such designation.

4 3.4 Nothing contained herein in any way restricts the ability of the  
5 Receiving Party to use “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –  
6 ATTORNEYS’ EYES ONLY” material produced to it in examining or cross-  
7 examining any employee or consultant of the Designating Party. The Parties  
8 acknowledge and agree that Receiving Party may not use Protected Materials  
9 marked by a Designating Party to examine or cross-examine an employee or  
10 consultant or another individual associated with a non-Designating Party. At  
11 deposition, the party using Designated Material must request that the portion of the  
12 proceeding where use is made be conducted so as to exclude persons not qualified to  
13 receive such Designated Material.

14 3.5 If a party wishes to use Protected Material during an examination of an  
15 employee or consultant or another individual associated with a non-Designating  
16 Party, and the Designating Party objects to such use, the parties shall hold a meet  
17 and confer to resolve the dispute. If the meet and confer is unsuccessful, the parties  
18 may contact the Court to request an informal discovery conference with the  
19 Magistrate Judge, to be held telephonically, to resolve the dispute.

#### 20 21 4. DURATION

22 Once a case proceeds to trial, information that was designated as  
23 CONFIDENTIAL or maintained pursuant to this protective order used or introduced  
24 as an exhibit at trial becomes public and will be presumptively available to all  
25 members of the public, including the press, unless compelling reasons supported by  
26 specific factual findings to proceed otherwise are made to the trial judge in advance  
27 of the trial. *See Kamakana*, 447 F.3d at 1180-81 (distinguishing “good cause”  
28 showing for sealing documents produced in discovery from “compelling reasons”

standard when merits-related documents are part of court record). Accordingly, the terms of this protective order do not extend beyond the commencement of the trial.

## 5. DESIGNATING PROTECTED MATERIAL

### 5.1 Exercise of Restraint and Care in Designating Material for Protection.

Each Party or Non-Party that designates information or items for protection under this Order must take care to limit any such designation to specific material that qualifies under the appropriate standards. The Designating Party must designate for protection only those parts of material, documents, items or oral or written communications that qualify so that other portions of the material, documents, items or communications for which protection is not warranted are not swept unjustifiably within the ambit of this Order.

Mass, indiscriminate or routinized designations are prohibited. Designations that are shown to be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily encumber the case development process or to impose unnecessary expenses and burdens on other parties) may expose the Designating Party to sanctions.

If it comes to a Designating Party's attention that information or items that it designated for protection do not qualify for protection at all or do not qualify for the level of protection initially asserted, that Designating Party must promptly notify all other Parties that it is withdrawing the inapplicable designation.

5.2 Manner and Timing of Designations. Except as otherwise provided in this Order (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered, Disclosure or Discovery Material that qualifies for protection under this Order must be clearly so designated before the material is disclosed or produced.

Designation in conformity with this Order requires:

- (a) for information in documentary form (e.g., paper or electronic



1 documents, but excluding transcripts of depositions or other pretrial or trial  
2 proceedings), that the Producing Party affix at a minimum, the legend  
3 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES  
4 ONLY”, to each page that contains protected material. If only a portion of the  
5 material on a page qualifies for protection, the Producing Party also must clearly  
6 identify the protected portion(s) (e.g., by making appropriate markings in the  
7 margins) and must specify, for each portion, the level of protection being asserted.

8 A Party or Non-Party that makes original documents available for inspection  
9 need not designate them for protection until after the inspecting Party has indicated  
10 which documents it would like copied and produced. During the inspection and  
11 before the designation, all of the material made available for inspection shall be  
12 deemed “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” After the  
13 inspecting Party has identified the documents it wants copied and produced, the  
14 Producing Party must determine which documents, or portions thereof, qualify for  
15 protection under this Order. Then, before producing the specified documents, the  
16 Producing Party must affix the appropriate legend (“CONFIDENTIAL” or  
17 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”) to each page that  
18 contains Protected Material. If only a portion of the material on a page qualifies for  
19 protection, the Producing Party also must clearly identify the protected portion(s)  
20 (e.g., by making appropriate markings in the margins) and must specify, for each  
21 portion, the level of protection being asserted.

22 (b) for testimony given in deposition or in other pretrial or trial  
23 proceedings, that the Designating Party identify on the record, before the close of  
24 the deposition, hearing, or other proceeding, all protected testimony and specify the  
25 level of protection being asserted. When it is impractical to identify separately each  
26 portion of testimony that is entitled to protection and it appears that substantial  
27 portions of the testimony may qualify for protection, the Designating Party may  
28 invoke on the record (before the deposition, hearing, or other proceeding is

1 concluded) a right to have up to 45 days to identify the specific portions of the  
2 testimony as to which protection is sought and to specify the level of protection  
3 being asserted. Only those portions of the testimony that are appropriately  
4 designated for protection within the 45 days shall be covered by the provisions of  
5 this Stipulated Protective Order. Alternatively, a Designating Party may specify, at  
6 the deposition or up to 45 days afterwards if that period is properly invoked, that the  
7 entire transcript shall be treated as “CONFIDENTIAL” or “HIGHLY  
8 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

9 Parties shall give the other parties notice if they reasonably expect a  
10 deposition, hearing or other proceeding to include Protected Material so that the  
11 other parties can ensure that only authorized individuals who have signed the  
12 “Acknowledgment and Agreement to Be Bound” (Exhibit A) are present at those  
13 proceedings. The use of a document as an exhibit at a deposition shall not in any  
14 way affect its designation as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –  
15 ATTORNEYS’ EYES ONLY.”

16 Transcripts containing Protected Material shall have an obvious legend on  
17 the title page that the transcript contains Protected Material, and the title page shall  
18 be followed by a list of all pages (including line numbers as appropriate) that have  
19 been designated as Protected Material and the level of protection being asserted by  
20 the Designating Party. The Designating Party shall inform the court reporter of  
21 these requirements. Any transcript that is prepared before the expiration of a 45-day  
22 period for designation shall be treated during that period as if it had been designated  
23 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” in its entirety unless  
24 otherwise agreed. After the expiration of that period, the transcript shall be treated  
25 only as actually designated.

26 (c) for information produced in some form other than documentary and  
27 for any other tangible items, that the Producing Party affix in a prominent place on  
28 the exterior of the container or containers in which the information is stored the

1 legend “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’  
2 EYES ONLY”. If only a portion or portions of the information warrants protection,  
3 the Producing Party, to the extent practicable, shall identify the protected portion(s)  
4 and specify the level of protection being asserted.

5 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent  
6 failure to designate qualified information or items does not, standing alone, waive  
7 the Designating Party’s right to secure protection under this Order for such material.  
8 Upon timely correction of a designation, the Receiving Party must make reasonable  
9 efforts to assure that the material is treated in accordance with the provisions of this  
10 Order.

## 11 12 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

13 6.1 Timing of Challenges. Any Party or Non-Party may challenge a  
14 designation of confidentiality at any time that is consistent with the Court’s  
15 Scheduling Order.

16 6.2 Meet and Confer. The Challenging Party shall initiate the dispute  
17 resolution process under Local Rule 37.1 et seq.

18 6.3 The burden of persuasion in any such challenge proceeding shall be on  
19 the Designating Party. Frivolous challenges, and those made for an improper  
20 purpose (e.g., to harass or impose unnecessary expenses and burdens on other  
21 parties) may expose the Challenging Party to sanctions. Unless the Designating  
22 Party has waived or withdrawn the confidentiality designation, all parties shall  
23 continue to afford the material in question the level of protection to which it is  
24 entitled under the Producing Party’s designation until the Court rules on the  
25 challenge.

## 26 27 7. ACCESS TO AND USE OF PROTECTED MATERIAL

28 7.1 Basic Principles. A Receiving Party may use Protected Material that is

disclosed or produced by another Party or by a Non-Party in connection with this Action only for prosecuting, defending or attempting to settle this Action. Such Protected Material may be disclosed only to the categories of persons and under the conditions described in this Order. When the Action has been terminated, a Receiving Party must comply with the provisions of section 13 below (FINAL DISPOSITION).

Protected Material must be stored and maintained by a Receiving Party at a location and in a secure manner that ensures that access is limited to the persons authorized under this Order.

7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated “CONFIDENTIAL” only to:

(a) the Receiving Party’s Outside Counsel of Record in this Action, as well as employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for this Action;

(b) the officers, directors, and employees (including House Counsel) of the Receiving Party to whom disclosure is reasonably necessary for this Action;

(c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably necessary for this Action and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(d) the court and its personnel;

(e) court reporters and their staff;

(f) professional jury or trial consultants, mock jurors, and Professional Vendors to whom disclosure is reasonably necessary for this Action and who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(g) the author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information;

1 (h) during their depositions, witnesses, and attorneys for witnesses, in the  
2 Action to whom disclosure is reasonably necessary provided: (1) the deposing party  
3 requests that the witness sign the form attached as Exhibit A hereto; and (2) they  
4 will not be permitted to keep any confidential information unless they sign the  
5 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise  
6 agreed by the Designating Party or ordered by the court. Pages of transcribed  
7 deposition testimony or exhibits to depositions that reveal Protected Material may  
8 be separately bound by the court reporter and may not be disclosed to anyone except  
9 as permitted under this Stipulated Protective Order; and

10 (i) any mediator or settlement officer, and their supporting personnel,  
11 mutually agreed upon by any of the parties engaged in settlement discussions.

12 7.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES  
13 ONLY” Information or Items. Unless otherwise ordered by the court or permitted in  
14 writing by the Designating Party, a Receiving Party may disclose any information or  
15 item designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” only  
16 to:

17 (a) Counsel for the parties, as that term is defined in Section 2.4 herein,  
18 as well as employees of said Counsel to whom it is reasonably necessary to  
19 disclose the information for this litigation;

20 (b) Experts of the Receiving Party to whom disclosure is reasonably  
21 necessary for this litigation, and who have signed the “Acknowledgment and  
22 Agreement to Be Bound” (Exhibit A);

23 (c) the court and its personnel;

24 (d) court reporters and their staff;

25 (e) professional jury or trial consultants, and Professional Vendors to  
26 whom disclosure is reasonably necessary for this litigation and who have  
27 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

28 (f) the author or recipient of a document containing the information or a

1       custodian or other person who otherwise possessed or knew the information;  
2       and,

3               (g) any mediator or settlement officer, and their supporting personnel,  
4       mutually agreed upon by any of the parties engaged in settlement discussions.

5  
6       8.     PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED  
7             IN OTHER LITIGATION

8             If a Party is served with a subpoena or a court order issued in other litigation  
9       that compels disclosure of any information or items designated in this Action as  
10      “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES  
11      ONLY” that Party must:

12            (a) promptly notify in writing the Designating Party. Such notification  
13      shall include a copy of the subpoena or court order;

14            (b) promptly notify in writing the party who caused the subpoena or order  
15      to issue in the other litigation that some or all of the material covered by the  
16      subpoena or order is subject to this Protective Order. Such notification shall include  
17      a copy of this Stipulated Protective Order; and

18            (c) cooperate with respect to all reasonable procedures sought to be  
19      pursued by the Designating Party whose Protected Material may be affected.

20            If the Designating Party timely seeks a protective order, the Party served with  
21      the subpoena or court order shall not produce any information designated in this  
22      action as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’  
23      EYES ONLY” before a determination by the court from which the subpoena or  
24      order issued, unless the Party has obtained the Designating Party’s permission. The  
25      Designating Party shall bear the burden and expense of seeking protection in that  
26      court of its confidential material and nothing in these provisions should be construed  
27      as authorizing or encouraging a Receiving Party in this Action to disobey a lawful  
28      directive from another court.

1     9.     A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE  
2             PRODUCED IN THIS LITIGATION

3             (a) The terms of this Order are applicable to information produced by a  
4 Non-Party in this Action and designated as “CONFIDENTIAL” or “HIGHLY  
5 CONFIDENTIAL – ATTORNEYS’ EYES ONLY”. Such information produced by  
6 Non-Parties in connection with this litigation is protected by the remedies and relief  
7 provided by this Order. Nothing in these provisions should be construed as  
8 prohibiting a Non-Party from seeking additional protections.

9             (b) In the event that a Party is required, by a valid discovery request, to  
10 produce a Non-Party’s confidential information in its possession, and the Party is  
11 subject to an agreement with the Non-Party not to produce the Non-Party’s  
12 confidential information, then the Party shall:

13             (1) promptly notify in writing the Requesting Party and the Non-Party  
14 that some or all of the information requested is subject to a confidentiality  
15 agreement with a Non-Party;

16             (2) promptly provide the Non-Party with a copy of the Stipulated  
17 Protective Order in this Action, the relevant discovery request(s), and a reasonably  
18 specific description of the information requested; and

19             (3) make the information requested available for inspection by the  
20 Non-Party, if requested.

21             (c) If the Non-Party fails to seek a protective order from this court within  
22 14 days of receiving the notice and accompanying information, the Receiving Party  
23 may produce the Non-Party’s confidential information responsive to the discovery  
24 request. If the Non-Party timely seeks a protective order, the Receiving Party shall  
25 not produce any information in its possession or control that is subject to the  
26 confidentiality agreement with the Non-Party before a determination by the court.  
27 Absent a court order to the contrary, the Non-Party shall bear the burden and  
28 expense of seeking protection in this court of its Protected Material.

10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A.

11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

When a Producing Party gives notice to Receiving Parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established in an e-discovery order that provides for production without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure of a communication or information covered by the attorney-client privilege or work product protection, the parties may incorporate their agreement in the stipulated protective order submitted to the court.

12. MISCELLANEOUS

12.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek its modification by the Court in the future.

12.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order, no Party waives any right it otherwise would have to object to



disclosing or producing any information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Protective Order.

12.3 Filing Protected Material. A Party that seeks to file under seal any Protected Material must comply with Local Civil Rule 79-5. Protected Material may only be filed under seal pursuant to a court order authorizing the sealing of the specific Protected Material at issue. If a Party's request to file Protected Material under seal is denied by the court, then the Receiving Party may file the information in the public record unless otherwise instructed by the court.

### 13. FINAL DISPOSITION

After the final disposition of this Action, as defined in paragraph 4, within 60 days of a written request by the Designating Party, each Receiving Party must return all Protected Material to the Producing Party or destroy such material, provided that no party will be required to expunge any system back-up media such as copies of any computer records or files containing Protected Material which have been created pursuant to automatic archiving or back-up procedures on secured central storage servers and which cannot reasonably be expunged, and further provided that any destruction does not destroy or affect the destroying party's computer programs, hardware, software, servers, or the like. As used in this subdivision, "all Protected Material" includes all copies, abstracts, compilations, summaries, and any other format reproducing or capturing any of the Protected Material. Whether the Protected Material is returned or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the 60 day deadline that (1) identifies (by category, where appropriate) all the Protected Material that was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries or any other format reproducing or capturing any of the Protected

1 Material. Notwithstanding this provision, Counsel are entitled to retain an archival  
2 copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal  
3 memoranda, correspondence, deposition and trial exhibits, expert reports, attorney  
4 work product, and consultant and expert work product, even if such materials  
5 contain Protected Material. Any such archival copies that contain or constitute  
6 Protected Material remain subject to this Protective Order as set forth in Section 4  
7 (DURATION).

8  
9 14. VIOLATION

10 Any violation of this Order may be punished by appropriate measures including,  
11 without limitation, contempt proceedings and/or monetary sanctions.

12  
13 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

14  
15  
16 Dated: April 19, 2018

By: /s/  
Sepehr Daghighian, Esq.  
HACKLER DAGHIGHIAN  
MARTINO & NOVAK, P.C.

17  
18  
19 Dated: April 19, 2018

By: /s/  
Chris Pey, Esq.  
FISHERBROYLES, LLP  
Attorneys for Plaintiff/Cross-  
Defendant

20  
21  
22  
23 Dated: April 19, 2018

By: /s/ Sang I. Lee  
Sang I. Lee, Esq.  
LAW OFFICES OF LEE & PARK  
Attorneys for Defendants/Cross-  
Claimant

24  
25  
26  
27 //

28 //

1 Dated: April 19, 2018

By: /s/  
Jed Schlacter, Esq.  
SCHLACTER & ASSOCIATES  
Co-Attorneys for Rainbow Defendants

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6  
7 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.  
8

9 DATED: April 19, 2018

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14 GAIL J. STANDISH  
15 UNITED STATES MAGISTRATE JUDGE  
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1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3  
4 I, \_\_\_\_\_ [print or type full name], of  
5 \_\_\_\_\_ [print or type full address], declare under penalty of perjury  
6 that I have read in its entirety and understand the Stipulated Protective Order that  
7 was issued by the United States District Court for the Central District of California  
8 on [date] in the case of *A Base IX Co. v. S &J Apparel, Inc., et al.*, Case No.: 2:17-  
9 cv-03920-SJO-GJS. I agree to comply with and to be bound by all the terms of this  
10 Stipulated Protective Order and I understand and acknowledge that failure to so  
11 comply could expose me to sanctions and punishment in the nature of contempt. I  
12 solemnly promise that I will not disclose in any manner any information or item that  
13 is subject to this Stipulated Protective Order to any person or entity except in strict  
14 compliance with the provisions of this Order.

15 I further agree to submit to the jurisdiction of the United States District Court for the  
16 Central District of California for enforcing the terms of this Stipulated Protective  
17 Order, even if such enforcement proceedings occur after termination of this action.

18 I hereby appoint \_\_\_\_\_ [print or type full name] of  
19 \_\_\_\_\_ [print or type full address and  
20 telephone number] as my California agent for service of process in connection with  
21 this action or any proceedings related to enforcement of this Stipulated Protective  
22 Order.

23 Date: \_\_\_\_\_

24 City and State where sworn and signed: \_\_\_\_\_

25  
26 Printed name: \_\_\_\_\_

27  
28 Signature: \_\_\_\_\_